



General Assembly

January Session, 2015

Raised Bill No. 6923

LCO No. 4403



Referred to Committee on JUDICIARY

Introduced by:
(JUD)

AN ACT CONCERNING SEXUAL ASSAULT.

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. Section 54-86f of the general statutes is repealed and the
2 following is substituted in lieu thereof (*Effective October 1, 2015*):

3 (a) In any prosecution for sexual assault under sections 53a-70, 53a-
4 70a, and 53a-71 to 53a-73a, inclusive, no evidence of the sexual conduct
5 of the victim may be admissible unless such evidence is (1) offered by
6 the defendant on the issue of whether the defendant was, with respect
7 to the victim, the source of semen, disease, pregnancy or injury, or (2)
8 offered by the defendant on the issue of credibility of the victim,
9 provided the victim has testified on direct examination as to his or her
10 sexual conduct, or (3) any evidence of sexual conduct with the
11 defendant offered by the defendant on the issue of consent by the
12 victim, when consent is raised as a defense by the defendant, or (4)
13 otherwise so relevant and material to a critical issue in the case that
14 excluding it would violate the defendant's constitutional rights. Such
15 evidence shall be admissible only after [a] an in camera hearing on a
16 motion to offer such evidence containing an offer of proof. [On motion

17 of either party the court may order such hearing held in camera,
18 subject to the provisions of section 51-164x.] If the proceeding is a trial
19 with a jury, such hearing shall be held in the absence of the jury. If,
20 after a hearing, the court finds that the evidence meets the
21 requirements of this section and that the probative value of the
22 evidence outweighs its prejudicial effect on the victim, the court may
23 grant the motion. The testimony of the defendant during a hearing on
24 a motion to offer evidence under this section may not be used against
25 the defendant during the trial if such motion is denied, except that
26 such testimony may be admissible to impeach the credibility of the
27 defendant if the defendant elects to testify as part of the defense.

28 (b) Any motion and supporting document filed pursuant to this
29 section shall be filed under seal and may be unsealed only if the court
30 rules the evidence is admissible and the case proceeds to trial. If the
31 court determines that only part of the evidence contained in the
32 motion is admissible, only that portion of the motion and any
33 supporting document pertaining to the admissible portion may be
34 unsealed. The court shall maintain any document remaining under
35 seal for delivery to the appellate court in the event of an appeal.

36 (c) The court shall seal each court transcript, recording and record of
37 a proceeding of a hearing held pursuant to this section. The court may
38 unseal a transcript, recording or record only if the court rules the
39 evidence in such transcript, recording or record is admissible and the
40 case proceeds to trial. If the court determines that only part of such
41 evidence is admissible, only the portion of such transcript, record or
42 recording pertaining to the admissible evidence may be unsealed.

43 (d) Evidence described in subsection (a) of this section shall be
44 subject to such other terms and conditions as the judicial authority
45 may provide. No defense counsel or his or her agent shall further
46 disclose such evidence disclosed by the state to any person except to
47 persons employed by defense counsel in connection with the
48 investigation or defense of the case, without the prior approval of the

49 prosecuting authority or the court.

50 Sec. 2. Subsection (d) of section 19a-112a of the general statutes is
 51 repealed and the following is substituted in lieu thereof (*Effective*
 52 *October 1, 2015*):

53 (d) Each health care facility in the state which provides for the
 54 collection of sexual assault evidence shall follow the protocol as
 55 described in subsection (b) of this section and, with the consent of the
 56 victim, shall collect sexual assault evidence. The health care facility
 57 shall contact a police department which shall transfer evidence
 58 collected pursuant to subsection (b) of this section, in a manner that
 59 maintains the integrity of the evidence, to the Division of Scientific
 60 Services within the Department of Emergency Services and Public
 61 Protection or the Federal Bureau of Investigation laboratory, not later
 62 than ten days after the collection of such evidence. The agency that
 63 receives such evidence shall analyze the evidence not later than sixty
 64 days after the collection of such evidence, except that if the victim
 65 chooses to remain anonymous, the agency that receives such evidence
 66 shall hold that evidence for [sixty days] five years after such collection.
 67 [, except that, if the victim reports the sexual assault to the police, the
 68 evidence shall be analyzed upon request of the police department that
 69 transferred the evidence to such agency and held by the agency or
 70 police department until the conclusion of any criminal proceedings.]

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>October 1, 2015</i>	54-86f
Sec. 2	<i>October 1, 2015</i>	19a-112a(d)

Statement of Purpose:

To provide greater protections for victims of sexual assault by enhancing privacy protections concerning court proceedings and records and to provide for deadlines concerning the transfer of and analysis of rape kit evidence.

[Proposed deletions are enclosed in brackets. Proposed additions are indicated by underline, except that when the entire text of a bill or resolution or a section of a bill or resolution is new, it is not underlined.]